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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------------|---------------------|------------------|
| 09/916,638 | 07/26/2001 | Richard Alexander Franklin | 001-001 | 8498 |

7590 09/08/2004

Richard A. Franklin
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San Diego, CA 92126

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| EXAMINER |
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LE, VU

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| ART UNIT | PAPER NUMBER |
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2613

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/916,638

Applicant(s)FRANKLIN, RICHARD
ALEXANDER**Examiner**

Vu Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

See page 1, lines 19 and 22. Dangling sentence structure.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Fernandez et al., US 6,697,103.

Re claim 1, a method for determining the relative occupancy of a space via analysis of a video stream. Fernandez et al clearly discloses this aspect. See col. 1, line 66 to col. 2, line 48, col. 3, line 58 to col. 4, line 34, col. 4, lines 57-67, col. 5, lines 1-21, col. 6, line 59 to col. 7, line 6, col. 15, lines 18-41, col. 16, lines 8-31 and lines 52-67. Note that in these cited segments, the mere fact that video surveillance conducted over the internet of various locations is indicative of determining the relative occupancy of a space via analysis of a video stream. One example disclosed in these cited segments is monitoring the density of objects at facilities outfitted for video surveillance.

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Re claim 2, the method of claim 1, wherein the space is one of a restaurant, a nightclub, a bar, a highway, a freeway, a beach, a tunnel, a bridge, or a public park.

See col. 2, lines 11-21, col. 4, lines 3-10.

Re claim 3, Fernandez discloses a computer system for determining the relative occupancy of a space (figs. 1-3, also with reference to claim 1 above) comprising: a network computer system (5) connected to the internet (8, col. 2, lines 27+) and comprising a connection to or having connected thereto a graphics card for capturing a video stream (graphic card is inherent in server 5), a camera for providing said video stream (3, col. 4, lines 23+), a software program for analyzing said video stream and determining a baseline image or sequence of images thereby providing relative occupancy information (66, 166, col. 8, lines 20+), an internet location for providing said relative occupancy information to the public (see claim 1 above, also col. 2, lines 11+, col. 4, lines 3+).

Contact

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vu Le whose telephone number is 703-308-6613. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 703-305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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